

CN 235 - Tribal IV-D Programs

Subject: Tribal IV-D Programs

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Approved: _____
Georgiann DeKay, Director

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I. Introduction

A. What is the background to this CN?

Federal Law, 42 USC Sec 655 (f), now gives authority for Indian tribes to operate directly funded child support enforcement programs. On August 21, 2000 the Department of Health and Human Services (DHHS) published a Notice of Proposed Rulemaking and an Interim Final Rule that implement direct federal funding of tribal child support enforcement programs to Indian tribes and tribal organizations.

The Notice of Proposed Rulemaking is pending. DHHS expects the final rule by December 2003. The Interim Final Rule allows tribes to immediately apply for and receive direct federal funding to operate tribal IV-D programs, if they currently operate a comprehensive program (directly or through an agreement, resolution or contract) that meets certain requirements.

DCS and the ESA State Tribal Relations Unit (STRU) are committed to strengthening and assisting the development of tribal IV-D programs. DCS will work government-to-government with tribes to provide the most efficient and productive use of all resources and authorities. Consistent with state, tribal, and federal law DCS will continue to develop procedures to coordinate the delivery of quality child support services.

Tribal IV-D programs may be quite different from state programs and from other tribal child support enforcement programs. The way in which a tribe will provide services depends on tribal law and regulation, program requirements, policy, and procedure.

Several Indian tribes within Washington State and outside of the state are pursuing federal funding. Within Washington State the Puyallup Tribe received federal funding to operate a IV-D program effective July 1, 2001; the Port Gamble S'Klallam Tribe received funding effective April 1, 2002; and the Lummi Nation received federal funding effective October 1, 2002. Other Indian tribes are also pursuing federal funding. DCS is working with these Indian tribes to address new opportunities and challenges resulting from these federal regulations.

This CN outlines DCS policy and procedure regarding initiating and responding to referrals to and from tribal IV-D programs, and coordinating child support services between programs.

B. Where do I place this in my Handbook?

1. Place this notice in front of the Support Enforcement Handbook Chapter 13, *Tribal Enforcement*.
2. Note on the Canary Notice Control Sheet the subject, date, and placement of this notice in your Handbook.
3. The text of this notice will be available on the DCS Intranet.

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- 4.** The author of this Canary Notice is Brady Rossnagle.

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II. Understanding Tribal IV-D Programs

This section provides general information regarding Tribal IV-D programs and their impact on DCS.

Laws	45 CFR Part 310 – Interim final rule 45 CFR Part 309 – Proposed rule 42 USC 655 (f) – Direct federal funding to Indian tribes
Policy	The DCS Tribal Liaison within the DSHS region of the tribe will perform necessary actions on cases involving tribal IV-D clients.
Procedure	The DCS Tribal Liaison and tribal IV-D staff will work together to determine which cases need a referral sent to a tribal IV-D program.
Visual Aids	DCS Tribal Relations Internet Website Everett Interstate Guide Interstate Requirements
Automated Actions	
SEMS Screens	
Forms Used	
Hearing and Conference Board Rights	
See Also	Chapter 13
Contact for more information:	Your Regional Tribal Liaison or Brady Rossnagle, ESA STRU, at rossnbx@dshs.wa.gov .

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II. Understanding Tribal IV-D Programs

A. How do I find more specific information regarding a tribal IV-D program or coordination of services?

Contact your Regional Tribal Liaison or refer to the Everett Interstate Guide or the DCS Interstate Requirements site.

B. Who manages DCS cases that are included in a tribal IV-D program?

Generally, the DCS Tribal Liaison within the DSHS region of the tribe is responsible for sending referrals to a tribal IV-D program and managing these cases. For out-of-state tribal IV-D programs, all DCS Tribal Liaisons usually are responsible for initiating and responding to cases to or from tribal IV-D programs.

C. How does DCS identify cases that need a referral sent to a tribal IV-D program in Washington State?

1. The DCS Regional Tribal Liaison and the tribe work together to determine which cases need a referral sent to a tribal IV-D program. Referral to the tribal IV-D program may be appropriate on a case when:
 - a. One or more parties reside within the boundaries of the reservation.
 - b. One or more parties are members of the tribe or the child is enrollable.
 - c. The NCP is employed by the tribe, tribal enterprise or Indian-owned business located on the reservation.
 - d. The tribal court issued the child support order.
 - e. Other cases agreed to by the Regional Tribal Liaison and the tribal IV-D program.
2. Determining which IV-D program will manage a particular case may depend upon: tribal IV-D program requirements, tribal membership, location of parties, location of the asset or income, current status of the case, employment history, best interest of the children, agreement of the parties, etc. The DCS Regional Tribal Liaison and tribal IV-D program staff will work together to decide the best forum for cases.

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III. Initiating Referrals to Tribal IV-D Programs

This section provides information regarding initiating referrals to Tribal IV-D programs.

Laws	45 CFR Part 310 – Interim final rule 45 CFR Part 309 – Proposed rule 42 USC 655 (f) – Direct federal funding to Indian tribes
Policy	The DCS Tribal Liaison uses existing Interstate forms to send referrals to tribal IV-D programs. Leave existing liens and withholding notices (ES, L&I, SSA) in place unless otherwise agreed by DCS tribal staff and tribal IV-D staff. Coordinate with the tribe the release of any withholding notices and wage assignments.
Procedure	Post a CC 76 entry and a WB comment indicating the case is a tribal IV-D case, list the tribe, and note that DCS is the initiating jurisdiction (IJ).
Visual Aids	DCS Tribal Relations Internet Website Everett Interstate Guide Interstate Requirements
Automated Actions	
SEMS Screens	CC, BC, WB, CF
Forms Used	09-881, 18-570, 18-577, 18-578, Paternity Affidavit
Hearing and Conference Board Rights	Conference Board
See Also	Support Enforcement Handbook Sections 13.000, 5.000, 9.000, 15.000, CN-192
Contact for more information:	Your Regional Tribal Liaison or Brady Rossnagle, ESA STRU, at rossnbx@dshs.wa.gov .

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III. Initiating Referrals to Tribal IV-D Programs

A. How does DCS code a tribal IV-D case on SEMS?

1. If the case involves a tribal IV-D program in Washington State, the DCS Regional Tribal Liaison may assign the case to a designated employee number for the tribe involved.
2. Post a **CC 76** entry and a **WB** comment. Document that this is a tribal IV-D case, list the tribe, and that DCS is the initiating jurisdiction (IJ).
3. On the **BC** screen, code Enforcement Services to **8**.
4. On the **CF** screen, leave the auto IRS field to **Y** unless otherwise agreed by DCS tribal staff and tribal IV-D staff.

B. What actions should DCS take before initiating a referral to a tribal IV-D program?

1. The DCS Tribal Liaison sends the DSHS 09-881 to the CP. Allow the CP 14 days to respond. See CN-192 for further instructions.
2. If the CP does not object to the release of his/her address, the DCS Tribal Liaison uses existing interstate referral forms to send referrals to a tribal IV-D program.
3. Leave existing liens and withholding notices (ES, L&I, SSA) in place unless otherwise agreed by DCS tribal staff and tribal IV-D staff.
4. If DCS is currently receiving payments, coordinate with the tribe the release of any withholding notices and wage assignments.
5. For tribal interstate requirements or for more information about specific tribal IV-D contacts, services, codes and policies, state/tribal agreements, referral checklists, etc., refer to the Everett Interstate Guide or the Interstate Requirements.

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IV. Responding to Referrals from Tribal IV-D Programs

This section provides information regarding responding to referrals from tribal IV-D programs.

Laws	45 CFR Part 310 – Interim final rule 45 CFR Part 309 – Proposed rule 42 USC 655 (f) – Direct federal funding to Indian tribes
Policy	Central Services staff respond to tribal IV-D program requests for Quick Locate or attachment of assets/funds not accessible by tribal IV-D programs. Examples may include Unemployment Compensation or Labor and Industries benefits. DCS distributes payments to tribal IV-D programs using electronic funds transfer (EFT). DCS and tribal IV-D programs negotiate a process to respond to tribal IV-D requests for federal offset. The Regional DCS Tribal Liaison manages other tribal IV-D requests for services. Tribal IV-D programs usually request state IV-D services using existing Interstate forms.
Procedure	Set up a responding tribal IV-D case on SEMS using case type 2 , Nonassistance. If DCS has an existing case, assign the CP a new BI number. On the CP's IA screen, enter the tribe's address for payment processing. Contact your Regional Tribal Liaison regarding DCS service requests from out-of-state tribal IV-D programs.
Visual Aids	DCS Tribal Relations Internet Website, Everett Interstate Guide Interstate Requirements
Automated Actions	
SEMS Screens	
Forms Used	18-624, 18-606
Hearing and Conference Board Rights	
See Also	Chapter 13, Chapter 15.010
Contact for more information:	Your Regional Tribal Liaison or Brady Rossnagle, ESA STRU, at rossnbx@dshs.wa.gov.

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IV. Responding to Referrals from Tribal IV-D Programs

A. What services might tribal IV-D programs request from DCS?

Tribal Child Support Enforcement Plans describe services they may request from other IV-D agencies. These services include, but are not limited to:

1. Courtesy draws for genetic testing when a paternity action has been initiated in tribal court and the tribal court has obtained an order compelling genetic testing. If the parties will voluntarily submit to testing, DCS may assist with obtaining genetic testing.
2. Paternity and child support establishment when the alleged father is not under the jurisdiction of the tribal court and does not voluntarily submit to their jurisdiction.
3. Quick Locate if tribal IV-D staff is unsuccessful in locating an NCP or their assets.
4. Driver's license suspension.
5. Withholding of assets/funds not accessible by the tribe such as Unemployment Compensation (UC) or Labor and Industries (L&I) benefits.
6. Federal offset. Currently, tribal IV-D programs usually access federal IRS certification through state IV-D agencies.

B. Who handles requests for DCS services from tribal IV-D programs?

1. DCS Central Services staff receive and respond to requests for Quick Locate services from tribal IV-D program staff. Tribal IV-D staff may use the **Locate Referral Sheet – Tribal**, DSHS 18-624 form for this purpose.
2. DCS Central Services staff receive and respond to requests for the attachment of assets/funds not accessible by the tribe such as UC and/or L&I benefits. Staff provide these services in a manner similar to in rem services that are currently provided to state IV-D agencies. Tribal IV-D staff may use existing interstate referral forms for this purpose.
3. DCS and tribal IV-D program staff work together to negotiate a process to perform federal offset.
4. Tribal IV-D program staff will send requests for all other services to the Regional DCS Tribal Liaison, who takes necessary action or coordinates case actions with other field offices and/or prosecutor offices. Actions include, but are not limited to, courtesy draws for genetic testing, paternity and child support establishment, and driver's license suspension.

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5. **Note:** contact your Regional Tribal Liaison regarding DCS service requests from out-of-state Tribal IV-D programs.

C. How does DCS Central Services staff perform quick locate services for tribal IV-D programs?

1. DCS Central Services staff work these requests in a manner similar to requests received from other jurisdictions.
2. Staff manually check on-line resources such as IV-D, IV-A, DOL, ESD and DOC for addresses, income/assets and employment. DCS notifies the tribe of a match, or that no information was found.
3. No more than one quick locate request may be performed every ninety (90) days on any given case.

D. How does DCS set-up a responding tribal IV-D case?

1. Cross-reference the parties and set up a new nonassistance case (Case Type 2 Non-AFDC) on SEMS.
2. Assign the CP with a new **BI** number. Do not merge the CP's **BI** number to existing IV-D cases. Make sure the Ethnicity codes on the **BI** screens are correct.
3. On the tribal case post two addresses to the CP's IA:
 - a. Enter the tribe's address as follows for payment processing:
Use address type **02** (mailing), verification code **01** (verified).
(Tribe's name) IV-D Program
Attn: (Tribal contact name)
RE: (CP's name)
Tribe's address
 - b. Enter the CP's address as follows for correspondence:
Use address Type **02** (mailing), Verification Code **32** (unverified), CP's name and actual address.
4. Update the tribal and existing cases with the most current information. Contact the Tribal Liaison if you need more information to set up the tribal case. Post a **CC 76** entry and a **WB** comment on the responding tribal IV-D (NA) case and on any open DCS case to show that this is a responding tribal IV-D case.
 - On the tribal case, enter: "This is a responding IV-D case with the (*list tribe*). DCS establishment or enforcement actions taken on this case may be limited. Contact your Tribal Liaison."
5. Send a message to DCS Headquarters using the DCS State Office Cash Service Request. Select your field office, "EFT" and list the D# of the case. In the

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comment section write "Please set-up EFT on case for the (*name of tribe*) IV-D program."

E. How does DCS Central Services staff perform limited (UC and L&I withholding) enforcement services for tribal IV-D programs?

DCS Central Services staff perform these services for tribal IV-D programs in a manner similar to requests received from other jurisdictions.

F. How do DCS Tribal Liaisons respond to requests for other IV-D services like paternity establishment or license suspension?

1. The Regional Tribal Liaison initiates a referral to the local Prosecuting Attorney's Office to request paternity establishment and/or child support establishment (depending on the request). Note on the referral that DCS is the RJ for a tribal IV-D program.
2. For requests for DCS enforcement services, other than limited services provided by Central Services described in B, C and E above, the DCS Tribal Liaison performs necessary actions in a manner similar to that which DCS provides for other states.

G. How does DCS send payments to a tribal IV-D program?

1. DCS distributes child support payments to tribal IV-D programs using electronic funds transfer (EFT).
2. Tribal IV-D Programs need to complete an **Authorization for Receipt of Electronic Funds Transfer – Tribal Child Support Programs**, DSHS 18-606, and send it to DCS Headquarters EFT Disbursements.

H. How does DCS certify and distribute a federal offset payment to a tribal IV-D program?

DCS is collaboratively working with staff from tribal IV-D programs to develop policy and procedure regarding the certification and distribution of federal offset payments. DCS is researching if it is feasible to submit tribal federal offsets electronically, without setting up a IV-D case for this purpose.

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V. Coordinating IV-D Services Between DCS and Tribal IV-D Programs

This section provides information regarding the coordination of services between DCS and tribal IV-D programs.

Laws	45 CFR Part 310 – Interim final rule 45 CFR Part 309 – Proposed rule 42 USC 655 (f) – Direct Federal funding to Indian tribes RCW 26.23.120 WAC 388-14A-2105 AT 02-03 Applicability of full faith and credit
Policy	Disclose information and records with tribal IV-D staff under the same authority as you share information with other state IV-D staff. Intake staff, statewide, screen paternity establishment cases to determine if the case is included within a tribal IV-D Program. DCS works with the tribe to coordinate collection activities on cases referred to a tribal IV-D program.
Procedure	DCS Tribal Liaisons disclose and communicate information with tribal IV-D program staff using similar methods as with other state IV-D program staff. Transfer tribal IV-D paternity establishment cases to the Tribal Liaison in the DSHS region of the tribe that is involved.
Visual Aids	DCS Tribal Relations Internet Website Everett Interstate Guide Interstate Requirements
Automated Actions	
SEMS Screens	
Forms Used	18-617, <u>18-370</u>
Hearing and Conference Board Rights	
See Also	Chapter 13, Chapter 5, Chapter 22, DSHS Secure E-mail Message System
Contact for more information:	Your Regional Tribal Liaison or Brady Rossnagle, ESA STRU, at rossnbx@dshs.wa.gov .

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V. Coordinating IV-D Services Between DCS and Tribal IV-D Programs

A. Can I disclose information and records to tribal IV-D program staff?

1. Yes, you can disclose information and records to tribal IV-D program staff under the same authority as you share information with other state IV-D program staff.
2. DCS may disclose information to any federally recognized Indian tribe if disclosure is necessary to the administration of the child support program or the performance of DCS functions and duties under state and federal laws.
Note: Exceptions may exist involving a case with good cause, Address Confidentiality Program (ACP), or case with the Domestic Violence Indicator set to 1. Follow procedures in **Chapter 5** regarding disclosure under these circumstances.

B. How do I communicate information with tribal IV-D program staff?

1. Use similar communication methods with tribal child support enforcement program staff as you do with state child support enforcement staff.
2. The **DCS and Tribe Information Change Notice**, DSHS 18-617, is a form specifically designed for DCS and tribes to communicate child support information with each other.

C. How do DCS intake staff prevent new paternity establishment cases from being inadvertently sent to the Prosecuting Attorney's Office?

1. Intake staff statewide screen paternity establishment cases to determine if the case is included within a tribal IV-D program. See II. C., for examples of case circumstances where a referral to the tribe may be appropriate. Contact your Regional Tribal Liaison with questions.
2. Transfer tribal IV-D paternity establishment cases to the Tribal Liaison in the DSHS region of the tribe that is involved.

D. Can DCS take enforcement actions on a case once it is referred to a tribal IV-D program?

The DCS Tribal Liaison will work with the tribe to coordinate collection activities on cases once a referral has been sent to a tribal IV-D program.

E. What if a tribal IV-D program asks DCS to close a nonassistance-only case because the CP applied for tribal IV-D services?

1. Contact the Tribal Liaison in the DSHS region of the tribe that is involved.

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2. If there are no DSHS arrears, send the **Full Collection Services Closure Letter**, DSHS 18-370, to the CP.
 - a. Check box **3** and **o**, and write "You requested that the *(list name)* Tribe provide full child support enforcement services. If you have questions, contact the *(list name)* Tribe Child Support Program at *(list address and telephone number)*."
 - b. Send a copy to the NCP.
 - c. Close the case after 60 days if the CP does not request a hearing.

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VI. Frequently Asked Questions

A. Why were the proposed federal regulations written?

1. It has been the long-standing policy of the federal government to support and strengthen the tribes' right to self-determination and to promote government-to-government relationships between the federal and state governments and the tribes.
2. The Constitution, court decisions, and federal law clearly reserve to Indian tribes important powers of self-government, including the authority to make and enforce laws and to adjudicate civil and criminal disputes (including domestic relation cases).
3. Prior to PRWORA, title IV-D of the Social Security Act placed authority to administer the delivery of IV-D services solely with the states.
4. The purpose of the regulation is to strengthen the economic and social stability of families by providing tribes with an opportunity to design their own child support programs to meet the needs of the tribes' children and their families. The regulations permit greater flexibility to tribes while providing for continued state/tribal cooperation.

B. Why are Indian tribes interested in operating IV-D programs?

1. In the past, many tribes have been addressing child support enforcement issues in some capacity, but only since August 21, 2000 were Indian tribes able to receive the necessary federal funding to operate a tribal IV-D program.
2. As sovereign governments, tribes may exercise their right to self-determination by deciding whether or not to operate a tribal IV-D program.
3. Tribes that choose to administer a tribal IV-D program meeting the objectives of Title IV-D of the Social Security Act will have considerable flexibility to develop and administer programs consistent with tribal laws and traditions.

C. How would a tribe qualify for direct federal funding to operate a tribal IV-D program under the interim final rule?

1. The tribe must currently operate a comprehensive child support program (directly or through an agreement, resolution or contract).
2. The tribal IV-D program must provide the following five services: paternity establishment, support order establishment, modification, enforcement, and location of noncustodial parents.

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3. The tribal entity must have at least 100 children under the age of majority as defined by tribal law or code in the population subject to the jurisdiction of the Tribal Court or administrative agency.

D. What do the proposed federal regulations say about jurisdiction?

1. The proposed regulations do not address the issue of jurisdiction. Fundamentally, the jurisdiction of a tribal IV-D program is determined by the tribe's judiciary and administrative authority under tribal law, and by applicable federal law.
2. In practice, a tribe's child support enforcement "service area" will be determined by the jurisdiction of its judicial courts or administrative process.

E. Which Indian tribes currently operate IV-D programs?

1. Within Washington State: The Puyallup Tribe, the Port Gamble S'Klallam Tribe and the Lummi Nation. **Note:** The Port Gamble S'Klallam Tribe also operates a Tribal TANF Program.
2. Outside of Washington State: Chickasaw Nation, Sisseton-Wahpeton Sioux Tribe, Navajo Nation, Lac du Flambeau Tribe of Wisconsin, and the Menominee Indian Tribe of Wisconsin.

F. What services do tribal IV-D programs provide?

1. Tribal child support enforcement programs must provide the following services: paternity establishment, support order establishment, modification, enforcement, and location of noncustodial parents.
2. Similar to the early development of state CSE programs, tribes have much flexibility in the way these services are provided.

G. How do tribal IV-D programs affect DCS?

1. DCS will have many existing IV-D cases for parties included within the tribe's "service area."
2. DCS and each Washington tribe will negotiate issues and processes regarding jurisdiction, definition of tribal cases, referrals to the tribe, referrals to DCS, case set-up, transfer of cases, distribution of support, locate services, federal offset, communication methods, reciprocal services, distribution of support and case closure.
3. Tribal IV-D programs may ask DCS to provide services such as locate, unemployment compensation or L&I withholding, and/or federal offset.

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4. DCS may receive requests for child support enforcement services from out-of-state tribal IV-D programs.

H. How is DCS addressing the impact of tribal IV-D programs?

1. DCS and ESA STRU meet with tribes who choose to administer a child support enforcement program. They seek to support the implementation of tribal IV-D programs by working government-to-government with tribes to coordinate services by developing partnerships, protocols, agreements, policy and procedure.
2. DCS and STRU offer Indian tribes resources, technical assistance and training in the development of their policy, program and tribal codes.
3. SEMS completed an evaluation of Information and Technology (IT) needs related to the DCS tribal program, including enhancements for tribal IV-D programs. SEMS is working on the development and implementation of proposed IT changes.
4. DCS will work with the Washington Association of Prosecuting Attorneys (WAPA) to address issues related to tribal IV-D programs, DCS policy and procedure, and state/tribal agreements that may impact services performed by County Prosecuting Attorneys' Offices.

I. Why are requests for limited services (such as the attachment of Unemployment Compensation or Labor and Industries benefits) managed by DCS Central Services staff instead of Regional Field Office staff?

1. DCS Central Services staff currently perform in rem services for other IV-D agencies.
2. DCS Central Services staff are piloting performing limited services for Tribes in a manner similar to in rem services that are currently provided to state IV-D agencies.

J. After receiving a request for limited services, what if DCS Central Services staff discovers an open case for the same NCP in a Regional Field Office?

- This situation will be treated in a manner similar to in rem cases sent by state IV-D agencies. After serving a notice, Central Services would contact the field office to coordinate collections.